

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

770D0477

SENATE COMMERCE COMMITTEE

ENGROSSED NO. **SB96** - 2/4/00

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsors.

Introduced by: Senators Shoener, Hutmacher, Lawler, and Paisley and Representatives Roe and Fischer-Clemens

1 FOR AN ACT ENTITLED, An Act to regulate motor vehicle service contracts.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 58-1-3 be amended to read as follows:

4 58-1-3. No provision of this title applies with respect to:

5 (1) Fraternal benefit societies, except as stated in chapter 58-37A;

6 (2) Bail bondsmen, other than corporate sureties and their agents, except as stated in
7 chapter 58-22;

8 (3) Motor vehicle service contracts, ~~extended service agreements, or other contracts by~~
9 ~~which a motor vehicle dealer licensed under chapter 32-6B or manufacturer of motor~~
10 ~~vehicles contracts to indemnify a motor vehicle owner or lessor against loss due to~~
11 ~~mechanical breakdown, or freedom from defective or worn parts or equipment of~~
12 ~~motor vehicles~~ which are contracts or agreements to perform or indemnify for a
13 specific duration the repair, replacement, or maintenance of motor vehicles for
14 operational or structural failure due to a defect in materials, workmanship, or normal
15 wear and tear, with or without additional provisions for incidental payment of

indemnity under limited circumstances, including towing, rental, and emergency road service. Consideration for a motor vehicle service contract shall be stated separately from the price of the motor vehicle. The term does not include mechanical breakdown insurance or maintenance agreements;

(4) Service agreements or extended warranty plans for which the primary purpose is to provide service, repair, or replacement on consumer goods or products including appliances, merchandise, or equipment, or mechanical/electrical systems in single or multiple-family dwellings. Incidental indemnity payments under such plans where service, repair, or replacement is not feasible or economical does not void this exemption;

(5) Any person, trust, or other entity proven to be under the exclusive regulatory authority of the federal government or another state agency;

(6) Any agreement to provide liability protection entered into pursuant to chapter 1-24 is exempt from the regulatory requirements of Title 58, except to forms of insurance coverage provided by an insurer otherwise subject to the insurance laws of this state.

Section 2. That § 58-1-2 be amended by adding thereto NEW SUBDIVISIONS to read as follows:

"Maintenance agreement," a contract of limited duration that provides for scheduled maintenance only;

"Mechanical breakdown insurance," any contract or agreement to perform or indemnify for a specific duration the repair, replacement, or maintenance of property for operational or structural failure due to a defect in materials, workmanship, or normal wear and tear.

1 **BILL HISTORY**

2 1/18/00 First read in Senate and referred to Commerce. S.J. 74

3 2/3/00 Commerce Hog Housed.

4 2/3/00 Scheduled for Committee hearing on this date.

5 2/3/00 Commerce Do Pass Amended, Passed, AYES 6, NAYS 0. S.J. 302

6 2/3/00 Commerce Place on Consent Calendar.